



# Hazardous Material Business Plan



The following information is provided to assist with understanding the Hazardous Material Business Plan program. This information is not to be relied upon as legal advice or interpretation by the Office of Emergency Services or the State of California. It does not create any rights, obligations, or establish any new standards. Local governments often have requirements that are more stringent than state and should be contacted for advice about this program in their area.

## Most Frequently Asked Hazardous Material Business Plan Questions

### 1) What is a Hazardous Material?

**State:** "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material which a handler, the Certified Unified Program Agency (CUPA) or the administering agency (AA) has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment ([Health and Safety Code section \(Health & Saf. Code sec\) 25501 \(o\)](#)).

**State Law:** [Health and Saf. Code sec 25501 \(o\)](#)

**Federal:** The federal government defines ([Section 11022 \(c\) of Title 42 of the United States Code \(42 USC 11022 \(c\)\)](#)) a hazardous chemical subject to the requirements of Title 42 Section 11022 as any hazardous chemical for which a material safety data sheet or a listing is required under [42 USC 11021](#).

The federal government defines ([40 Code of Federal Regulations \(CFR\) Section 370.2](#)) hazardous chemical as any hazardous chemical as defined under [29 CFR Section 1910.1200 \(c\)](#), except that such term does not include the following substances:

- Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration
- Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use
- Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public
- Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual
- Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.



**Laws:** Health & Saf. Code sec 25500- 25520  
Title 42 Section 11021-11022

**Regs:** Title 19 CCR, Division 2, Chapter 4, Article 4  
29 CFR 1910.1200 (c)  
40 CFR Part 370  
40 CFR Part 355 Appendices A and B  
40 CFR Part 350

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The federal government defines ([40 CFR Section 370.2](#)) extremely hazardous substance as a substance listed in the appendices to [40 CFR part 355](#), Emergency Planning and Notification.

*Federal Law:* [42 USC 11021](#)  
[42 USC 11022 \(c\)](#)

*Federal Regs.:* [29 CFR Section 1910.1200 \(c\)](#)  
[40 CFR part 355](#)  
[40 CFR Section 370.2](#)

## 2) What is a Hazardous Material Business Plan?

A Hazardous Material Business Plan (HMBP) is a document containing detailed information on the:

- Hazardous materials at a facility
- Emergency response plans and procedures in the event of a reportable release or threatened release of a hazardous material
- Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material.

*State Law:* [Health and Saf. Code sec 25504 \(a-c\)](#)

## 3) What is the purpose of the HMBP?

The intent of the HMBP is to:

- Provide basic information necessary for use by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material
- Satisfy federal and state Community Right-To-Know laws.

## 4) Who must complete and submit a HMBP?

**State:** The State of California requires an owner or operator of a facility to complete and submit a HMBP if the facility handles a hazardous material or mixture containing a hazardous material that has a quantity at any one time during the reporting year equal to or greater than:

- 55 gallons, 500 pounds, or 200 cubic feet at standard temperature and pressure for a compressed gas
- Amounts of radioactive materials requiring an emergency plan pursuant to Parts 30, 40, or 70 of Title 10 Code of Federal Regulations.

Any business, not subject to the thresholds above, which is required to submit chemical inventory information pursuant to [42 USC 11022](#) shall establish and implement a HMBP in accordance with [Health & Saf. Code sec 25503.5](#) and [Health & Saf. Code sec 25505](#).

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**State Laws:** [Health & Saf. Code sec 25503.5 \(a\)](#)  
[Health & Saf. Code sec 25503.8 \(a\)](#)  
[Health & Saf. Code sec 25504.1](#)  
[Health & Saf. Code sec 25505 \(a\) \(1\)](#)

**State Regs.:** [Title 19 Section 2729.1](#)  
[Title 19 Section 2729.2](#)

**Federal:** The federal government requires owners and operators of a facility to complete and submit an emergency and hazardous chemical inventory form annually, known as the Tier II form, if the facility has at a minimum or greater:

- 500 pounds (or 227 kilograms --- approximately 55 gallons) or applicable federal threshold quantities for extremely hazardous substances listed in 40 CFR Part 355, Appendix A and B and hazardous chemicals, whichever is lower
- 10,000 pounds of a hazardous chemical that is not an extremely hazardous substance
- 75,000 gallons of gasoline
- 100,000 gallons of diesel.

Facilities provide their hazardous materials inventories on a Tier II form. Tier II forms require basic facility identification information, employee contact information for both emergencies and non-emergencies, and information about chemicals stored or used at the facility:

- The chemical name or the common name as indicated on the Material Safety Data Sheet (MSDS)
- An estimate of the maximum amount of the chemical present at any time during the preceding calendar year and the average daily amount
- A brief description of the manner of storage of the chemical
- The location of the chemical at the facility
- An indication of whether the owner of the facility elects to withhold location information from disclosure to the public.

**Federal Law:** [42 USC 11022 \(a\)](#)  
[42 USC 11022 \(b\)](#)  
[42 USC 11022 \(c\)](#)

**Federal Regs.:** [40 CFR Section 370.20](#)  
[40 CFR Section 370.25](#)  
[40 CFR Part 355 Appendices A and B](#)

*\* The State of California thresholds are more stringent than federal thresholds. If a business must submit a Tier II form then the business must submit a complete HMBP as well ([Health & Saf. Code sec. 25503.8 \(a\)](#)).*

## 5) To whom do I submit my HMBP?

**State:** The State of California requires all HMBPs be submitted to the local CUPA or AA and the local fire agency ([Health & Saf. Code sec 25505 \(a\)](#)).

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*State Law:* [Health & Saf. Code sec 25503.8 \(a\)](#)  
[Health & Saf. Code sec 25505 \(a\)](#)  
[Health & Saf. Code sec 25506 \(b\)](#)  
[Health & Saf. Code sec 25506 \(c\)](#)

*State Regs.:* [Title 19 Section 2929.4](#)

**Federal:** The Federal government requires all Tier II forms be submitted to the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC), and the local fire department ([40 CFR Section 370.25](#)). **In California, any person who files an inventory form under Health & Saf. Code sec 25509 with the CUPA or AA shall be deemed to have filed the inventory form (Tier II form) required by subsection (a) of Section 11022 of Title 42 of the United States Code with the SERC and LEPC ([Health & Saf. Code sec 25506 \(b\)](#)). The CUPA or AA shall, upon request, transmit the inventory information to the SERC and LEPC ([Health & Saf. Code sec 25506 \(c\)](#)).**

*Federal Law:* [42 USC 11022 \(a\)](#)

*Federal Regs.:* [40 CFR Section 370.25](#)

*\* The State of California thresholds are more stringent than federal thresholds. If a business must submit a Tier II form then the business must submit a complete HMBP as well ([Health & Saf. Code sec. 25503.8 \(a\)](#)).*

## 6) What forms do I use to submit a HMBP?

**State:** The State of California developed the following forms for businesses to use to submit their HMBP:

- Business Activities Page of the Unified Program Consolidated (Title 27, Section 15600 (a))
- Business Owner/Operator Identification Page
- Hazardous Materials – Chemical Description Page. The state form contains all state and [federally](#) required inventory information. The use of this form will meet state and federal reporting requirements. The form includes a section for additional information that may be requested by the CUPA or AA. Contact your local [CUPA or AA](#) to determine what additional information, if any, is required.
- Annotated Site Map.

The instructions and forms are located in [Title 19, Appendix A](#) and [Title 27, Section 15600 \(a\)](#).

Contact your local CUPA or AA to determine what forms to use to submit the emergency response plans and procedures, training program information, and additional information.

*\* The CUPA or AA may require more information than what the State of California requires for the HMBP requirements. Check with the local jurisdiction having authority to implement and enforce the HMBP Program to determine what those additional requirements, if any, are.*

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*State Laws:* [Health & Saf. Code sec 25503.3](#)

*State Regs.:* [Title 19 Section 2729.2](#)  
[Title 19 Appendix A](#)  
[Title 27 Section 15600 \(a\)](#)

**Local:** CUPAs or AAs have HMBP packages that contain boilerplate forms to use to submit HMBPs. The CUPA's or AA's have the authority to develop their own hazardous materials inventory reporting forms. However, the local forms must contain identical content to the state and federal forms and must be developed with input from local emergency response personnel. If local forms do not contain identical content, a business may be in jeopardy of noncompliance. A business may choose to use the state Hazardous Materials – Chemical Description Page to report their hazardous material inventories to a CUPA or AA ([Health & Saf. Code sec 25503.3 \(b\) \(1\)](#)).

**Federal:** If a business chooses to use the [federal Tier II form](#) found in [40 CFR Section 370.41](#) to meet its inventory reporting requirements, it must also submit a state or local form. Submittal of the state standard form will meet state and federal reporting requirements in California.

*Federal Law:* [42 USC 11022 \(g\)](#)

*Federal Reg.:* [40 CFR Section 370.41](#)

*\* The State of California thresholds are more stringent than federal thresholds. If a business must submit a Tier II form then the business must submit a complete HMBP as well ([Health & Saf. Code sec 25503.8 \(a\)](#)).*

## 7) Are there exemptions for submitting a HMBP?

**Types of Hazardous Materials Exemptions:** The State of California exempts the following hazardous materials from the HMBP requirements:

- Oxygen, nitrogen, and nitrous oxide handled by a physician, dentist, podiatrist, veterinarian, or pharmacist at their place of business in quantities of not more than 1,000 cubic feet of each material at any one time ([Health & Saf. Code sec 25503.5 \(b\) \(1\)](#))
- Lubricating oil for a single business facility, if the total volume of each type of lubricating oil handled at that facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at the facility does not exceed 275 gallons, at any one time ([Health & Saf. Code sec 25503.5 \(b\) \(2\)](#))
- Hazardous Material contained solely in a consumer product for direct distribution to, and use by, the general public, unless the CUPA or AA has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submission of a HMBP, or any portion thereof, in response to public health, safety, or environmental concerns ([Health & Saf. Code sec 25503.5 \(c\) \(1\)](#)).

**Types of Business Exemptions:** The State of California exempts the following businesses from filing portions of the HMBP requirements if they meet specific requirements:

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- Farms operating for the purpose of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the emergency response plans and procedures ([Health & Saf. Code sec 25503.5 \(\(c\) \(5\) and sec. 25504 \(e\)\)](#)) if:
  - a. The farm handler provides the inventory of information required by [Health & Saf. Code sec 25509](#) to the county agricultural commissioner before January 1 of each year
  - b. Each building in which hazardous materials subject to the HMBP requirements are stored is posted with signs that provide notice of the storage of any of the following:
    - i. Pesticides
    - ii. Petroleum fuels and oil
    - iii. Types of fertilizers.
- Unstaffed remote facilities located in an isolated sparsely populated area from filing the HMBP and inventory requirements if all of the following requirements are met ([Health & Saf. Code sec 25503.5 \(c\) \(6\)](#)):
  - a. The types and quantities of materials onsite are limited to one or more of the following:
    - i. Five hundred standard cubic feet of compressed inert gases (asphyxiation and pressure hazards only)
    - ii. Five hundred gallons of combustible liquid used as a fuel source
    - iii. Two hundred gallons of corrosive liquids used as electrolytes in closed containers
    - iv. Five hundred gallons of lubricating and hydraulic fluids
    - v. Twelve hundred gallons of flammable gas used as a fuel source
  - b. The facility is secured and not accessible to the public
  - c. Warning signs are posted and maintained for hazardous materials pursuant to the California Fire Code
  - d. A one-time notification and inventory is provided to the CUPA or AA along with a processing fee in lieu of the existing fee
  - e. If the information contained in the initial notification or inventory changes and the time period of the change is longer than 30 days, the notification or inventory shall be submitted within 30 days to the CUPA or AA to reflect the change, along with a processing fee, in lieu of the existing fee
  - f. The CUPA or AA may require an unstaffed remote facility to submit a HMBP and inventory in accordance with the HMBP requirements if the agency finds that special circumstances exist such that development and maintenance of the HMBP and inventory is necessary to protect public health and safety and the environment.

**Types of Procedural Exemptions:** The State of California allows the CUPA or AA to exempt any hazardous material, handler or a specific hazardous material handled by a business from HMBP requirements or any portion thereof under the following circumstances:

- The CUPA or AA may, in exceptional circumstances, following notice and public hearing, exempt from the inventory provisions of Chapter 6.95 any hazardous material if the CUPA or AA finds that the hazardous material would not pose a present or potential danger to the environment or to human



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health and safety if the hazardous substance was released into the environment ([Health & Saf. Code sec 25503.5 \(c\) \(2\)](#))

- The CUPA or AA, upon application by a handler, may exempt the handler, under conditions that the CUPA or AA determines to be proper, from any portion of the HMBP, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment or affect the ability of the CUPA or AA and emergency rescue personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption ([Health & Saf. Code sec 25503.5 \(c\) \(3\)](#))
- The CUPA or AA, upon application by a handler, may exempt a hazardous material from the inventory provisions of Chapter 6.95 upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment ([Health & Saf. Code sec 25503.5 \(c\) \(4\)](#))
- The CUPA or AA may, with the written concurrence of the local fire chief, require a handler to submit only the inventory portion of the HMBP, a list of emergency contacts, a site plan, and a certification that the handler has prepared a complete HMBP that meets the HMBP requirements, in lieu of the submission of a HMBP, and require the handler to maintain the complete HMBP at the site where the inventory is stored ([Health & Saf. Code sec 25505 \(e\)](#)).

*State Laws:* [Health & Saf. Code sec 25503.5 \(b\)](#)  
[Health & Saf. Code sec 25503.5 \(c\)](#)  
[Health & Saf. Code sec 25504 \(e\)](#)  
[Health & Saf. Code sec 25505 \(e\)](#)  
[Health & Saf. Code sec 25509](#)

*\*The State of California exemptions are only applicable to businesses not subject to the requirements of applicable federal law.*

## 8) When do I need to submit a HMBP?

**State/Federal:** A business is required to submit an initial HMBP when it begins to handle hazardous materials at the applicable state and/or federal thresholds (See question #4 – Page 2).

## 9) How often do I need to update my Hazardous Material Inventory and HMBP?

**State:** The State of California requires the hazardous materials inventory and the HMBP to be updated as follows:

A business must update and submit their hazardous materials inventory annually on or before March 1, depending on your CUPA's individual requirements ([Title 19 Section 2729.4 \(b\)](#)). After initial submittal, if no changes in your inventory have occurred and your business is only regulated under the state program,

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you may submit a certification statement ([Health & Saf. Code sec 25503.3 \(c\)](#)) and [Title 19 Section 2729.5 \(a\)](#)). If a change in your inventory has occurred you may comply with the annual inventory reporting requirements by submitting an updated Business Owner/Operator Identification Page and Hazardous Materials – Chemical Description Page ([Title 19 Section 2729.5 \(b\)](#)).

A business must review their HMBP at least once every three years after the initial submission of the HMBP, to determine if a revision is needed and shall certify to the CUPA or AA that the review was made and that any necessary changes were made to the plan. A copy of those changes shall be submitted to the CUPA or AA as a part of that certification ([Health & Saf. Code sec 25505 \(c\)](#)).

*State Law:* [Health & Saf. Code sec 25503.3 \(c\)](#)  
[Health & Saf. Code sec 25505 \(c\)](#)

*State Regs.:* [Title 19 Section 2729.4 \(b\)](#)  
[Title 19 Section 2729.5 \(a\)](#)  
[Title 19 Section 2729.5 \(b\)](#)  
[Title 19 Section 2729.6](#)

**Federal:** An inventory must be submitted annually on or before March 1, and annually thereafter ([40 CFR Section 370.25 \(a\)](#)). For those businesses that fall under the federal requirement to submit an annual inventory, a certification statement will not suffice. Submittal of the inventory shall meet the Emergency Planning & Community Right-to-Know Act (EPCRA) if the following are submitted with the inventory ([Title 19 Section 2729.6](#)):

- Business Activities page of the Unified Program Consolidated Form
- “Substantiation Form to Accompany Claims of Trade Secrecy” Form ([40 CFR Section 350.27](#)) if the business wishes to claim trade secrecy in accordance with [40 CFR Part 350](#)
- Chemical Description Page(s), for each extremely hazardous substance, containing an original signature, a photocopy of the original signature, or a signature stamp. This signature may be placed in the box for locally collected information.

*Federal Law:* [42 USC 11022 \(a\)](#)

*Federal Regs.:* [40 CFR Section 370.25 \(a\)](#)  
[40 CFR Section 350.27](#)

## 10) Am I subject to inspections by the local CUPA or AA?

**State:** The State of California provides the authority to any employee or authorized representative of a CUPA or AA to inspect the premises of a handler concerning hazardous materials, in addition to hazardous waste to determine if the business is in compliance with the HMBP requirements ([Health & Saf. Code sec 25508 \(a\)](#)).

*State Law:* [Health & Saf. Code sec 25508 \(a\)](#)

**Federal:** The federal government requires an owner/operator of a facility that has submitted an inventory form to allow on-site inspection by the fire department having jurisdiction over the facility upon request of the department ([40 CFR Section 370.25 \(d\)](#)). In California, the CUPA or AA have jurisdiction over the



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facility. The CUPA or AA is either the fire department, public health, environmental health or other local department authorized to implement or enforce the HMBP requirements.

*Federal Law:* [42 USC 11022 \(f\)](#)

*Federal Regs.:* [40 CFR Section 370.25 \(d\)](#)

## 11) What happens if I do not comply with the HMBP requirements?

**State:** In California, any business that does not comply with the HMBP requirements is civilly liable to the administering county or city in an amount not more than two thousand dollars (\$2,000) for each day in noncompliance. If the noncompliance results in, or significantly contributes to, an emergency, including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials ([Health & Saf. Code sec 25514 \(a\)](#)).

If the business continues to be in noncompliance after reasonable notice of violating the HMBP requirements, the business is civilly liable to the administering county or city in an amount not to exceed five thousand dollars (\$5,000) for each day in noncompliance ([Health & Saf. Code sec 25514 \(b\)](#)).

*State Law:* [Health & Saf. Code sec 25514](#)

**Federal:** In the United States, any person other than a governmental entity who violates any requirement of 40 CFR Section 370.25 shall be liable for civil and administrative penalties of not more than \$25,000 for each violation. Each day a violation continues shall constitute a separate violation ([40 CFR Section 370.5](#)).

*Federal Regs.:* [40 CFR Section 370.5](#)

## 12) Is my HMBP that is on file with the CUPA or AA subject to public inspections?

**State:** The State of California requires the CUPA or AA to make available for public inspection the HMBP and revisions during regular working hours of the CUPA or AA, except those portions of the HMBP specifying the precise location where the hazardous materials are stored and handled onsite, including maps of the site ([Health & Saf. Code sec 25506 \(a\)](#)).

Upon receipt of a request for the release of information to the public which includes information which the business claimed as a trade secret, the CUPA or AA shall notify the business in writing of the request by certified mail. The CUPA or AA shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of request for information, unless, prior to the expiration of the 30-day period, the business files an action in an appropriate court for a declaratory judgment that the information is subject to protection or for an injunction prohibiting disclosure of the information to the public and promptly notifies the CUPA or AA of that action ([Health & Saf. Code sec 25511 \(c\)](#)).

Any information which is confidential shall not be disclosed to anyone except the following ([Health & Saf. Code sec 25511 \(d\)](#)):

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- An officer or employee of the county, city, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the county or city and their employees if, in the opinion of the CUPA or AA, disclosure is necessary and required for the satisfactory performance of a contract, for the performance of work, or to protect the health and safety of the employees of the contractor
- Any physician where the physician certifies in writing to the CUPA or AA that the information is necessary to the medical treatment of the physician's patient.

*State Law:* [Health & Saf. Code sec 25506 \(a\)](#)  
[Health & Saf. Code sec 25511 \(c\)](#)  
[Health & Saf. Code sec 25511\(d\)](#)

**Federal:** The federal government requires the SERC, LEPC, and/or local fire department to make available for public inspection the hazardous materials inventory. The owner/operator may request to withhold from disclosure the location of any specific chemical identified in the Tier II form. The public can petition requesting disclosure of chemical identity claimed as a trade secret ([40 CFR 350.15](#)). In California, the CUPA or AA makes available the hazardous materials inventory.

*Federal Law:* [42 USC 11022 \(e\)](#)

*Federal Regs.:* [40 CFR Section 350.15](#)  
[40 CFR Section 370.30](#)  
[40 CFR Section 370.31](#)

## 13) Is my HMBP information shared with local emergency response personnel?

**State:** The CUPA or AA shall forward HMBP information collected, within 15 days of receipt and confirmation, to other local agencies with shared responsibilities for protection of the public health and safety and the environment ([Health & Saf. Code sec 25509.2 \(a\) \(3\)](#)). In addition, the CUPA or AA shall provide all information obtained from completed inventory forms, upon request, to emergency rescue personnel on a 24-hour basis ([Health & Saf. Code sec 25503.5 \(d\)](#)).

*State Law:* [Health & Saf. Code sec 25503.5 \(d\)](#)  
[Health & Saf. Code sec 25509.2 \(a\) \(3\)](#)

**Federal:** The SERC, LEPC, or local fire department shall provide, upon request, Tier II information to a local official, acting in his or her official capacity. In California, the CUPA or AA makes the hazardous materials inventory available.

*Federal Law:* [42 USC 11022 \(e\)](#)

*Federal Regs.:* [40 CFR 370.30 \(b\) \(2\)](#)

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## 14) Whom do I call if I have questions?

- Contact your local [CUPA or AA](#), or the Office of Emergency Services Hazardous Materials Unit at (916) 845-8741, if you have any HMBP questions.



### Additional Resources

[www.oes.ca.gov](http://www.oes.ca.gov)

[www.calcupa.net](http://www.calcupa.net)

[www.epa.gov](http://www.epa.gov)

[www.leginfo.ca.gov](http://www.leginfo.ca.gov)

If you have any questions regarding  
HMBP Submittals please call the  
Hazardous Material Unit  
(916) 845-8741

